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In the Supreme Court of the United States

OCTOBER TERM, 1969

No. ORIGINAL

UNITED STATES OF AMERICA, PLAINTIFF

v.

STATES OF MAINE, NEW HAMPSHIRE, MASSACHUSETTS, RHODE ISLAND, NEW YORK, NEW JERSEY, DELAWARE, MARYLAND, VIRGINIA, NORTH CAROLINA, SOUTH CAROLINA, GEORGIA AND FLORIDA

MOTION FOR LEAVE TO FILE COMPLAINT

The United States of America asks leave of the Court to file the attached Complaint against the States of Maine, New Hampshire, Massachusetts, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia and Florida.

JOHN N. MITCHELL,
Attorney General.

ERWIN N. GRISWOLD,
Solicitor General.

APRIL 1969.

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COMPLAINT

The United States of America, by the Attorney General and the Solicitor General, brings this suit against the States of Maine, New Hampshire, Massachusetts, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia and Florida, and for its causes of action states:

FIRST CAUSE OF ACTION

(Against the State of Maine)

I

The jurisdiction of this Court is invoked under Article III, Section 2, paragraph 2, of the Constitution of the United States, and Title 28, United States Code, Section 1251(b)(2).

II

At all times herein material, the United States was and, except as set forth in Paragraph III hereof, has ever since been and now is entitled, to the exclusion of the defendant State, to exercise sovereign rights over the seabed and subsoil underlying the Atlantic Ocean, extending seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast to the outer edge of the continental shelf, for the purpose of exploring the area and exploiting its natural resources; and the State, except as set forth in Paragraph III hereof, has never had and does not now have any title thereto or property interest therein.

III

On May 22, 1953, by Public Law 31 of the 83d Congress, known as the Submerged Lands Act, 67 Statutes at Large 29, the United States granted to the State the title to and ownership of the submerged lands and natural resources lying in the Atlantic Ocean within the boundaries of said State, but not extending seaward more than three geographic miles from the ordinary low-water mark or from the outer limit of inland waters; and by said Act the United States released its claim for money or damages arising out of any operations by the State or under its authority in the area so granted.

IV

The State claims some right, title or interest in the seabed and subsoil of the continental shelf underlying the Atlantic Ocean more than three geographic miles seaward from the ordinary low-water mark and from

the outer limit of inland waters, adverse to the United States.

V

In the exercise of the rights claimed by it, the State has purported to grant exclusive oil and gas exploration and exploitation rights in approximately 4.4 million acres of land submerged in the Atlantic Ocean in the area in controversy.

VI

By reason of the foregoing, the United States is now entitled, to the exclusion of the Defendant State, to exercise sovereign rights over the seabed and subsoil underlying the Atlantic Ocean, lying more than three geographical miles seaward from the ordinary low water mark and from the outer limit of inland waters on the coast, extending seaward to the outer edge of the continental shelf, for the purpose of exploring the area and exploiting its natural resources, and is entitled to an accounting for all sums of money derived by the State from the area lying more than three geographical miles seaward from the ordinary low water mark and from the outer limit of inland waters on the coast, which are properly owing to the United States.

VII

On August 7, 1953, by Public Law 212 of the 83d Congress, known as the Outer Continental Shelf Lands Act, 67 Statutes at Large 462, 468, Congress declared the "urgent need for further exploration and development of the oil and gas deposits of the submerged lands of the outer Continental Shelf" and

provided that such need should be met by the issuance of mineral leases in that area by the Secretary of the Interior to private operators. By its conduct and claims described in Paragraphs IV and V hereof the State is interfering with and obstructing, or threatens to obstruct the orderly and effective exploration, leasing, and development of said mineral resources, and will continue to do so and will thereby cause great and irreparable injury to the United States unless the rights of the United States are declared and established by this Court. The United States has no other adequate remedy.

VIII

The original jurisdiction of this Court is invoked because there is urgent need for prompt and final settlement of the controversy, because the fundamental question in issue relates to aspects of the foreign policy of the United States which are most appropriately a subject for original adjudication by this Court, and because only in this Court is it possible to join all the defendant States whose participation is necessary to the orderly adjudication of issues in which they have a common interest.

SECOND CAUSE OF ACTION

(Against the State of New Hampshire)

IX

The United States repeats and realleges the allegations contained in paragraphs I through IV and VI through VIII hereof, with the same force and effect as if herein set forth.

THIRD CAUSE OF ACTION

(Against the Commonwealth of Massachusetts)

X

The United States repeats and realleges the allegations contained in paragraphs I through IV and VI through VIII hereof, with the same force and effect as if herein set forth.

FOURTH CAUSE OF ACTION

(Against the State of Rhode Island and Providence Plantations)

XI

The United States repeats and realleges the allegations contained in paragraphs I through IV and VI through VIII hereof, with the same force and effect as if herein set forth.

FIFTH CAUSE OF ACTION

(Against the State of New York)

XII

The United States repeats and realleges the allegations contained in paragraphs I through IV and VI through VIII hereof, with the same force and effect as if herein set forth.

SIXTH CAUSE OF ACTION

(Against the State of New Jersey)

XIII

The United States repeats and realleges the allegations contained in paragraphs I through IV and VI

through VIII hereof, with the same force and effect as if herein set forth.

SEVENTH CAUSE OF ACTION

(Against the State of Delaware)

XIV

The United States repeats and realleges the allegations contained in paragraphs I through IV and VI through VIII hereof, with the same force and effect as if herein set forth.

EIGHTH CAUSE OF ACTION

(Against the State of Maryland)

XV

The United States repeats and realleges the allegations contained in paragraphs I through IV and VI through VIII hereof, with the same force and effect as if herein set forth.

NINTH CAUSE OF ACTION

(Against the Commonwealth of Virginia)

XVI

The United States repeats and realleges the allegations contained in paragraphs I through IV and VI through VIII hereof, with the same force and effect as if herein set forth.

TENTH CAUSE OF ACTION

(Against the State of North Carolina)

XVII

The United States repeats and realleges the allegations contained in paragraphs I through IV and VI through VIII hereof, with the same force and effect as if herein set forth.

ELEVENTH CAUSE OF ACTION

(Against the State of South Carolina)

XVIII

The United States repeats and realleges the allegations contained in paragraphs I through IV and VI through VIII hereof, with the same force and effect as if here set forth.

TWELFTH CAUSE OF ACTION

(Against the State of Georgia)

XIX

The United States repeats and realleges the allegations contained in paragraphs I through IV and VI through VIII hereof, with the same force and effect as if here set forth.

THIRTEENTH CAUSE OF ACTION

(Against the State of Florida)

XX

The United States repeats and realleges the allegations contained in paragraphs I through IV and VI through VIII hereof, with the same force and effect as if herein set forth. The term "Atlantic Ocean" as used herein is to be understood as including the Straits of Florida.

WHEREFORE, the United States prays that the defendants be required to answer this complaint, and that a decree be entered declaring the rights of the United States as against the defendants in the subsoil, seabed, and natural resources underlying the Atlantic Ocean, including the Straits of Florida, lying more than three geographical miles seaward from the ordinary low-water mark and from the outer limit of inland waters to the edge of the continental shelf, and requiring said defendants to account for all sums of money derived therefrom, and for such other and further relief as may be proper in the premises.

JOHN N. MITCHELL,
Attorney General.

ERWIN N. GRISWOLD,
Solicitor General.

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BRIEF IN SUPPORT OF MOTION

JURISDICTION

This controversy between the United States and the States of Maine, New Hampshire, Massachusetts, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia and Florida is within the original jurisdiction of this Court under Article III, Section 2, paragraph 2, of the Constitution of the United States and Title 28, United States Code, Section 1251(b)(2).

STATEMENT

The purpose of this litigation is to establish, as against the defendant States, the rights of the United States in the lands and natural resources of the bed of the Atlantic Ocean, beginning at a line three geo-

graphical miles seaward from the ordinary low-water mark and from the outer limit of inland waters and extending seaward to the edge of the continental shelf.

The thirteen original colonies did not separately acquire ownership of the three-mile belt in the adjacent sea or of the soil under it. Such ownership was acquired by the national government after the formation of the Union and the federal government rather than the States had paramount rights in and power over the three-mile belt in the marginal sea, including full dominion over the underlying mineral resources. *United States* v. *California,* 332 U.S. 19.

Under Presidential Proclamation No. 2667, dated September 28, 1945, 59 Stat. 884, the United States claimed the natural resources of the subsoil and sea bed of the Continental Shelf beneath the high seas but contiguous to the coasts of the United States. In 1953, by enacting the Submerged Lands Act, 67 Stat. 29, 43 U.S.C. 1301–1315, Congress gave the defendant States ownership of the bed of the three-mile territorial sea within their boundaries.[1] Beyond that the situation in the Atlantic Ocean remains as it was. In the same year, Congress passed the Outer Continental Shelf Lands Act, 67 Stat. 462, 43 U.S.C. 1331–1343. This Act asserted jurisdiction of the United States over the Outer Continental Shelf. On March 24, 1961, by ratifying the Convention on the Continental Shelf, 15 U.S.T. (Pt. 1) 471, the United States

[1] Section 4 of the Submerged Lands Act, 43 U.S.C. 1312, confirmed the boundary of each of the original States as a line three geographical miles distant from its coast line, and approved and confirmed past or future claims to that distance by other States.

affirmed the rights of a coastal nation over the Continental Shelf to explore and exploit its natural resources.

Maine claims title to submerged lands extending 100 miles into the Atlantic Ocean on the basis of provisions contained in a number of colonial charters. Relying on this claim, Maine has issued a permit purporting to grant exclusive oil and gas exploration and exploitation rights in approximately 3.3 million acres of these submerged areas in the Atlantic Ocean, more than three miles from the coast. The other defendant States have asserted that the same or similar charter provisions entitle them to submerged lands and resources of the continental shelf more than three miles from the coast in the Atlantic Ocean. To permit complete adjudication of these common claims, we have joined as defendants all the Atlantic coast States.

ARGUMENT

I

THE COMPLAINT STATES FACTS ENTITLING THE UNITED STATES TO RELIEF

In *United States* v. *California,* 332 U.S. 19, this Court held that the original thirteen States did not separately acquire ownership of the three-mile belt in the adjacent sea or of the soil under it.[2] Such owner-

[2] Eleven of the thirteen proposed defendants are original States. Maine and Florida, of course, are not, but the same principle governs their claims, as it did the claims of California, Louisiana and Texas, by virtue of the Equal Footing Clause. See, particularly, *United States* v. *Texas,* 339 U.S. 707, 717–720.

ship was acquired by the national government after the formation of the Union; the federal government, rather than the States, then obtained paramount rights in and power over the three-mile belt in the marginal sea, including full dominion over the underlying mineral resources. By the Submerged Lands Act, 67 Stat. 29, 43 U.S.C. 1301–1315, the United States gave the defendant States ownership of the bed of the three-mile territorial sea within their boundaries in the Atlantic Ocean. But, at the same time, Congress reasserted the right of the federal government to the resources seaward of those granted and, as the Court noted in *United States* v. *Louisiana,* 363 U.S. 1, 7, "the Act concededly did not impair the validity of the *California*, *Louisiana*, and *Texas* cases, which are admittedly applicable to all coastal States * * *."

Nevertheless, the State of Maine claims by virtue of certain Colonial Charters, and as successor to Massachusetts, that when it became a member of the Union its boundary and ownership extended into the Atlantic Ocean 100 miles from its coastline, and that the limits provided in the Submerged Lands Act of 1953, 67 Stat. 29, 43 U.S.C. 1301–1315, cannot diminish its rights. By making repeated public assertions of its claims to vast submerged areas lying more than three miles seaward from the ordinary low-water mark and from the outer limit of inland waters and by granting exclusive oil and gas exploration and exploitation rights to large submerged areas in the Atlantic Ocean, Maine has created a dispute which requires adjudication by this Court.

The United States seeks to secure a declaration of its rights in the submerged lands and resources lying more than three miles seaward from the ordinary low-water mark and from the outer limit of inland waters along the coast of the Atlantic States exactly comparable in terms to that entered in the case of *United States* v. *Louisiana et al.*, 382 U.S. 288. That is to say, it will identify the area in suit by its relationship to the ordinary low-water mark and outer limit of inland waters without determining the physical location of the area on the ground in any particular locality. Such a decree can be entered with a minimum of delay. In our view, it will not require the taking of any evidence, but involves only questions of law and matter of which the Court will take judicial notice.

II

THIS IS AN APPROPRIATE CASE FOR EXERCISE OF THE ORIGINAL JURISDICTION OF THIS COURT

This case is one which eminently justifies invoking the original jurisdiction of this Court. It is not a case of merely monetary importance (although the value of the subject matter is enormous); nor is it one of only local or transitory significance. The dispute is between the Nation itself and thirteen coastal States, and, until resolved, the disagreement impedes the "further exploration and development of the oil and gas deposits of the submerged lands of the outer Continental Shelf" for which Congress has declared an "urgent need." 67 Stat. 468, 43 U.S.C. 1337(a).

It was repeatedly recognized during the congres-

[illegible]

[illegible]

[illegible]

leaving the same status before this Court on findings of fact made by a lower court.

In *United States v. Louisiana*, 363 U.S. 1, involving the adjudication of the rights of the federal government and Louisiana in the submerged lands of the Gulf of Mexico, this Court stated that "the issues in this litigation are so related to the possible interests of Texas, and other States situated on the Gulf of Mexico, to the subject matter of this suit, that the just, orderly, and effective determination of such issues requires that they be adjudicated in a proceeding in which all the interested parties are before the Court," and thereupon ordered the joinder of all the other Gulf Coast States. It has, the United States seeks by joinder as parties defendant all the Atlantic Coast States because each of them has asserted claims to submerged lands in excess of three miles from the coast upon grounds similar to those of States' boundaries on

[1] We have included Florida as a proper defendant although we recognize that the Atlantic Ocean coast [illegible] the Florida Keys on the southern side of the Florida Keys that State's claims in the Gulf of Mexico does not [illegible] to [illegible] United States v. Florida and [illegible] the United States v. Louisiana et al. and it is not that Florida's claims in the Atlantic Ocean, although [illegible] in the proceeding and [illegible] that by the United States and [illegible] by Florida in the Original [illegible] have never been adjudicated. While these issues can of course be [illegible] as supplementary proceedings to that case [illegible] Original, it would seem more appropriate to join Florida as a party to this action, since the general question of State claims in the submerged lands underlying the Atlantic Ocean will be resolved.

the claims of the Atlantic Coast States are based upon either the same charters or upon other charters containing similar language, or which incorporate by reference the terms of such charters, the claims of the Atlantic Coast States present an even greater identity than did those of the Gulf Coast States. They can be joined only in this Court.

The issues presented here grow out of, and are in a sense but a continuation of, those presented in the cases of *United States* v. *California*, 332 U.S. 19; *United States* v. *Louisiana*, 339 U.S. 699; and *United States* v. *Texas*, 339 U.S. 707. They are of equal urgency and importance. The considerations which led this Court to take jurisdiction of those cases as original suits are fully applicable here.

CONCLUSION

For the reasons stated, the motion for leave to file the complaint should be granted.

Respectfully submitted.

JOHN N. MITCHELL,
Attorney General.

ERWIN N. GRISWOLD,
Solicitor General.

APRIL 1969.

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